(1) (3)

Single Bench

**IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)**

**CRIMINAL MISC. PETITION NO. 114 /2006**

**PETITIONERS**

4433/06

Filed on 10/4/06

by Shri Rej U Pal Advocate

2/4/06

R. to D. R. (J)

1. Anamika Jain,
W/o Shri Mukesh Jain,
Aged about 34 years,
R/0 Gyatri Mandir, Ward-Station Road, Durg, (C.G.)

2. Sunil Jain,
S/o Mahendra Kumar Jain,
Aged about 36 years,

3. Smt. Mamta Jain,
W/o Sunil Jain
Aged about 30 years.

4. Smt. Chameli Bai,
W/o Mahendra Kumar Jain,
Aged about 55 years

5. Mukesh Kumar Jain,
S/o Mahendra Kumar Jain,
Aged about 38 years.

Petitioners No.2 to 5 are residents of New Shanti Nagar, near Swetamber Jain Mandier, Vaishali Nagar, Bhilai, Distt-Durg (C.G.)

RECEIVED COPY
1-7-06
CLERK to A. G. BILASPUR

OATH COMMISSIONER
APARNA MALVIYA
C[illegible]/23/06
24/07/06
Bilaspur Chhattisgarh

***Versus***

**RESPONDENT**

State of Chhattisgarh
Through District Magistrate, Durg
(C.G.)

**PETITION UNDER SECTION 482 OF CODE OF CRIMINAL PROCEDURE, 1973**

(54)

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Cr.M.P.No.114/2006**

Anamika Jain and others

Vs.

State of Chhattisgarh

---

Present :

Smt. Fouzia Mirza, Advocate along with the petitioners-Anamika Jain, Sunil Jain, Smt. Mamta Jain, Smt. Chameli Bai and Mukesh Kumar Jain.

Shri G.K.Beriwal, Dy. Advocate General for the State.

---

**ORAL ORDER**

**21.12.2006**

The following order is passed by

**SUNIL KUMAR SINHA, J.**

(1) This is a petition filed under Section 482 of the Code of Criminal Procedure mainly for quashing of the proceedings of criminal case No.722/2004, pending in the Court of Additional Chief Judicial Magistrate, Durg (C.G.). It is also against the order dated 27.6.2006, passed by the said Court. By the aforesaid order, the learned Magistrate compounded the offences punishable under Sections 294, 506 and 323 of the IPC, but he disallowed the compromise for the offences punishable under Section 498-A IPC and Section 4 of the Dowry Prohibition Act because these offences were not declared to be compoundable by the Legislature.

(2) The brief facts are that petitioner- No.1 was married to petitioner No.5, petitioner No.2 is the brother in law *(Jeth)*, petitioner No.3 is the sister in law (*Jethani)* and petitioner No.4 is the mother in law. They were being prosecuted under the aforementioned Sections of IPC and Dowry Prohibition Act before the concerned Magistrate. Later on, on account of certain compromise, an application for compounding the offences was filed and the aforesaid application was allowed by the Magistrate after recording evidence of petitioner No.1, so far as the

offences under Sections 294, 506 and 323 IPC are concerned, it was rejected for the 2 offences referred to above. It is after the said rejection, this petition under Section 482 Cr.P.C. has been filed.

(3) The jurisdiction of the High Court under Section 482 Cr.P.C. regarding quashment of a proceeding under Section 498-A IPC in view of Section 320 Cr.P.C. is no longer *res-integra*. It has been observed by the Apex Court in the matter of ***B.S.Joshi and others Vs. State of Haryana & another, 2003 (2) CGLJ 35*** that 'there is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter-productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women form settling earlier. That is not the object of Chapter XX-A of the India Penal Code.' Observing this, the Apex Court laid down that such proceedings can be quashed by the High Court under Section 482 Cr.P.C. in its inherent jurisdiction.

(4) After hearing the parties in person, who are identified by the counsel (see order sheet), I am satisfied that they have settled their dispute amicably and intervention by this Court under Section 482 Cr.P.C. by quashing the criminal proceedings would meet the ends of justice and in the prevailing facts and circumstances, it should not be allowed to continue.

(5) For the foregoing reasons, this petition is allowed and the proceedings of criminal case No.722/2004 pending in the Court of Additional Chief Judicial Magistrate, Durg are hereby quashed. No cost.

Sd/-
SUNIL KUMAR SINHA
Judge

sunita